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10 Attorneys for the United States of America

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

14 UNITED STATES OF AMERICA,) No. CR 07-00006 SBA
15 Plaintiff,)
16 v.) STIPULATION AND ORDER TO SET
17 JOANNE FOUNTAINE and) TRIAL DATE, PRETRIAL
ANTHONY TIMMONS,) CONFERENCE, AND PRETRIAL
18 Defendants.) DEADLINES

19
20 **STIPULATION**

21 The parties, by and through undersigned counsel, hereby agree and stipulate as follows:

22 Trial in the present case was most recently set for October 6, 2008. On September 15,
23 2008, pursuant to the parties' stipulation and request, the Court vacated this trial date and set a
24 September 23, 2008 hearing for changes of plea by both defendants. On September 23, 2008,
25 defendant Anthony Timmons appeared before the Court and persisted in his not guilty plea. For
26 setting a new trial date, the Court set a status hearing for defendant Timmons for October 7,
27 2008. Defendant Joanne Fountaine, citing health issues, stipulated with the government to have
28 her change of plea hearing continued to October 7, 2008. Citing health issues again, defendant

STIPULATION AND [PROPOSED] ORDER
No. CR 07-00006 SBA

1 Fountaine, along with the government, has requested a continuation of her change of plea
2 hearing to October 28, 2008.

3 Notwithstanding defendant Fountaine's potential change of plea, the parties stipulate and
4 request that the status hearing set for October 7, 2008 be vacated and that the Court set a trial
5 date of May 4, 2009 for an estimated 5 trial days. Accordingly, the parties further stipulate and
6 request that a pretrial conference be set for April 28, 2009 at 11:00 a.m., that the deadline for
7 submission of pretrial preparation be set for April 7, 2009, that the deadline for motions in limine
8 and objections to evidence be set for April 14, 2009, and that the deadline for responses to
9 motions in limine and objections to evidence be set for April 21, 2009. Should defendant
10 Fountaine successfully change her plea on October 28, 2008, these dates would, of course, be
11 moot as to defendant Fountaine. The estimated number of 5 trial days required would, however,
12 remain unchanged.

13 The parties further request that, based on the facts provided herein, time between October
14 7, 2008 and the proposed April 28, 2009 pretrial conference be excluded under 18 U.S.C.
15 §§ 3161(h)(8)(A) and (B)(iv). All parties have spent considerable time engaging in plea
16 agreement discussions and now face the task of adequately preparing for the proposed May 4,
17 2009 trial date. Furthermore, during its pretrial investigation, the government has also
18 indicated to the defense that it has additional discovery for the defense and is currently in
19 the process of preparing such discovery. Defense counsel will require additional time to
20 review the discovery and investigate the facts and issues presented therein. The
21 government has also communicated to defense counsel that it is considering superseding
22 charges that would be based upon the same facts and evidence that gave rise to the
23 pending charges. The government would seek such charges sufficiently in advance so as
24 to not disrupt the proposed trial date and schedule of deadlines.

25 For the foregoing reasons, the parties stipulate and agree that the ends of justice served
26 by continuing this case to an April 28, 2009 pretrial conference at 11:00 a.m. and trial
27 commencing on May 4, 2009 trial date outweigh the best interests of the public and the
28 defendant in a speedy trial because the failure to grant such a continuance would

1 unreasonably deny the government and defendants continuity of counsel and
2 unreasonably deny counsel for the defendants and government the reasonable time
3 necessary for effective preparation, taking into account the exercise of due diligence.

4 **IT IS SO STIPULATED.**

5 Dated: October 3, 2008

LATHAM & WATKINS LLP

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8 */s/*
9 ROBERT E. SIMS
10 HOLLY J. TATE
11 Attorneys for Defendant
12 Joanne Fountaine

13 **IT IS SO STIPULATED.**

14 Dated: October 3, 2008

15 */s/*
16 LINDA FULLERTON
17 Attorney for Defendant
18 Anthony Timmons

19 **IT IS SO STIPULATED.**

20 Dated: October 3, 2008

21 JOSEPH P. RUSSONIELLO
22 United States Attorney

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28 */s/*
29 ANDREW S. HUANG
30 CHINHAYI J. COLEMAN
31 Assistant U.S. Attorneys

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby GRANTS the parties' request to vacate the current status hearing set for October 7, 2008 and set this case for pretrial conference on April 28, 2009 at 11:00 a.m. and trial commencing on May 4, 2009 at 8:30 a.m. The Court further ORDERS that the deadline for submission of pretrial preparation be set for April 7, 2009, that the deadline for motions in limine and objections to evidence be set for April 14, 2009, and that the deadline for responses to motions in limine and objections to evidence be set for April 21, 2009.

The Court hereby FINDS that continuing the case to the April 28, 2009 pretrial conference outweighs the best interests of the public and the defendant in a speedy trial because the failure to grant such a continuance would unreasonably deny the parties continuity of counsel and unreasonably deny counsel for the parties the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Based on these findings, IT IS HEREBY ORDERED that time is excluded from the date of this Order to April 28, 2009 under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv). A revised Order for Pretrial Preparation resetting pretrial preparation and motions deadlines will be issued separately.

Dated: October 7, 2008

Saundra B Armstrong
Hon. SAUNDRA BROWN ARMSTRONG
United States District Court
Northern District of California